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Contra-Funding Affair Illustrates Failure of the Oversight Process

Concerned Lawmakers Didn't Follow Through in 1985

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"The White House has said—not wrongly—that Col. North did not break any laws. That misses the point. The point is that the presidency has been dragged into an operation every bit as noxious as the White House Plumbers caper that led to the Nixon impeachment proceedings."

That assessment of the North affair wasn't made last week, or even last month. It appeared more than a year ago, in an Aug. 16, 1985, column by the late Joseph Krait. "The congressional leaders have pretty much given up on the oversight committees," Krait noted. His point was that dubious activities, if left uncorrected, can lead to disaster.

Krait's remark illustrates an important—and, for Congress and the press, embarrassing—aspect of the contra-funding affair. Lt. Col. Oliver L. North's questionable fund-raising efforts for the contras, far from being a secret that suddenly erupted last month, have been evident to anyone who bothered to look for nearly two years. It still isn't clear whether North's funding activities in 1984 and 1985 were illegal, but they almost certainly violated the spirit of the law—and contained the seeds of the Iran scandal.

Congress fretted about the problem through much of last year, but couldn't figure out a way to stop what many members thought were North's violations of the 1984 Boland Amendment, which banned direct or indirect U.S. military aid for the Nicaraguan counterrevolutionaries. Similarly, the press published sporadic accounts of North's activities but never conducted a sustained investigation. North may have exploited this tolerant attitude toward his private-funding network and pushed on to a more aggressive funding tactic—the diversion of profits from the sale of weapons to Iran.

The Reagan administration's success in stonewalling Congress last year may have emboldened North, according to Rep. Michael D. Barnes (D-Md.), who tried and failed in 1985 to uncover the facts about North's private-funding efforts.

"I feel a little personal responsibility that I wasn't more aggressive in my investigation," Barnes said in an interview. "I've come to the conclusion that the reason the rest happened was that the White House believed that if I couldn't get them, and Lee [H. Hamilton (D-Ind.), chairman of the House Permanent Select Committee on Intelligence] couldn't, they were immune."

Congressional and legal investigations of the North scandal may take months to run their course, and they will rightly focus on the misdeeds of Reagan administration officials. But

some intelligence experts argue that Congress should share in the blame for not stopping North's activities before they did such devastating damage. According to these experts, the scandal illustrates, among other things, the inability of the existing oversight process to curb the intelligence activities of a president as popular as Ronald Reagan.

"It was the popularity of the president that deterred the oversight committees and the press from pursuing the issue," said Stansfield Turner, a former director of central intelligence. "We've lost some of our oversight by default."

"If Col. North's early activities had been properly investigated by congressional committees—which had warnings that something questionable was going on—the Iran fiasco might never have happened," said Fred Wertheimer, president of Common Cause, a lobbying group that repeatedly urged the intelligence committees to conduct such an investigation last year.

This failure of congressional oversight may be one item on the agenda of the Senate select committee that will investigate the Iran affair next year, according to one source close to the investigation.

North was certainly no stranger to newspaper readers over the last several years. A review of the leading U.S. newspapers, magazines and wire services shows that he was mentioned by name in 62 separate stories from 1983 through 1985. His contra-funding effort was the worst-kept secret in town.

Some of these articles make disturbing reading now. The Christian Science Monitor reported in November 1984, after the ban on U.S. military aid to the contras took effect, that North was part of a "right-wing network" supporting the contras. The Los Angeles Times and The Wall Street Journal each ran a series of articles in March 1985 that mentioned the administration's role in private funding. The Miami Herald reported in June 1985 a "definite link" between the Reagan administration and private funding.

The New York Times provided details about North's fund-raising for the contras and his "tactical influence" on their military operations in August 1985. But the Times, apparently in response to requests from the White House, referred to North only as a National Security Council official.

North's name did appear a few days later in a detailed profile of him in The Washington Post. The article drew fire from the White House, which argued that North's identity and activities were so secret that naming him could put his life in jeopardy. In fact, North's name had already appeared in at least 13 different stories in major publications before the Post article.

The August 1985 press reports about North

triggered calls for a congressional investigation. Barnes sent a letter on Aug. 16 to Robert C. McFarlane, then national security adviser, requesting information about North. When Barnes finally met with McFarlane two months later, the national security adviser offered to let Barnes review documents about North, but not remove them from the White House.

"I came away from the meeting with a feeling that he had something to hide. He protested too much," Barnes recalled.

Wertheimer of Common Cause urged the House and Senate intelligence committees to investigate secret NSC funding efforts for the contras in an Aug. 14, 1985, letter. He renewed the request in September. Wertheimer again urged the committees to investigate North in October, after the Associated Press published a story naming North as the coordinator of "a secret plan to replace CIA funds with assistance from American citizens and U.S. allies."

Another protest came from Rep. Leon E. Panetta (D-Calif.), who sent a Sept. 5, 1985, letter to House colleagues requesting an investigation of "reports that Lt. Col. Oliver L. North . . . has been meeting with contra leaders and providing both military advice and assistance in raising funds from private sources." Panetta stressed that "the issue here involves the possible violation of the spirit, if not the letter, of the law."

But McFarlane assured the intelligence committees that North's activities were all legal. He wrote in a September 1985 letter to Hamilton: "We did not solicit funds or other support for

military or paramilitary activities either from Americans or third parties." McFarlane's statement was at least questionable at the time, in light of a published report in March 1985 that an administration official had assisted contra leader Adolfo Calero in soliciting funds, including making introductions for him to potential donors. But the chairmen of the two intelligence committees accepted McFarlane's assurances and decided against further investigation.

"The committee was impressed by Mr. McFarlane's willingness to discuss these issues and his response to our questions," wrote Hamilton, chairman of the House intelligence panel, to Wertheimer in November. "I would need to be shown credible evidence that Col. North violated the Boland Amendment. At this point, I am unaware of such evidence."

"The allegations raised in the press cannot be proved," wrote Sen. David F. Durenberger (R-Minn.), chairman of the Senate Select Committee on Intelligence.

Weighing the legality of North's activities is a complicated legal problem. It turns on interpretation of the Boland Amendment's ban against the expenditure of funds by any U.S. agency involved in intelligence activities to support "directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual."

Some members of Congress thought last year that North was violating the spirit—and perhaps also the letter—of the Boland Amendment. They wish now that they had made their argument more strongly—strongly enough to force the administration to curb North's activities.